THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2218 OF 2003

16.3.2006

Between:

Meligum Laxmi Devi, W/o.Ramulu

And others

… Petitioners

AND

The District Collector, Nampally, Hyderabad

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2218 OF 2005

ORDER:

The petitioners, who are twenty six (26) in number, filed the writ petition on their behalf and also on behalf of another forty one (41) persons *inter alia* seeking a direction to respondents, namely, the District Collector, Hyderabad, the Commissioner of Municipal Corporation of Hyderabad (MCH) and Government of Andhra Pradesh (GoAP), to provide the petitioners an opportunity to prove their bona fide claim for rehabilitation by allotment of alternative site/constructed houses.

It is the case of the petitioners that they and others were living on river bank in thatched huts beneath Shivaji Bridge on river Musi. On 17th and 20th January 2003, respondents removed hutment dwellers forcibly. The petitioners however alleged that immediately thereafter the petitioners and others raised temporary structures in the same place. The GoAP came forward with a scheme for beautification of Musi riverbed called Nandanavanam project. The same was assailed in two writ petitions being W.P.No.29501 of 1997 and W.P.No.18782 of 1997. A learned Single Judge of this Court disposed of the two writ petitions by a common order dated 06.8.1999 *inter alia* directing respondents to accommodate the encroachers already identified

by the authorities at the alternative sites at Karmanghat or Gachibowli or other places. Aggrieved by the same, the writ appeals being W.A.No.1444 and 1470 of 1999 came to be filed. The Division Bench of this Court, to which I was a member, having noticed only submission that the claims of 300 genuine families may be considered by the District Collector, by an order dated 08.10.1999, disposed of above writ appeals directing the respondents to determine the claim of the applicants as and when such application is made. In this writ petition, the petitioners claim that all the 67 persons on whose behalf the writ petition is filed are similarly situated and, therefore, the District Collector or competent revenue authority may give an opportunity to prove their bona fide claim for allotment of alternative sites. The petitioners herein seek similar opportunity.

The writ petition was admitted by this Court on 10.2.2003. When the matter was listed before this Court, the learned Assistant Government Pleader for Municipal Administration was directed to seek instructions with regard to list of 67 persons, who are allegedly in occupation of the riverbed near Shivaji Bridge. This direction was issued in view of the counter averments made by the Mandal Revenue Officer (MRO), Nampally to the effect that the petitioners were never in occupation of any land under Shivaji Bridge and that those persons, who are in occupation of encroached land, were already give house site pattas/houses. When this matter is called again, it is brought to the notice of this Court that as many as 2000 houses are under construction and there are more than 1000 persons waiting to be allotted these houses. It is also brought to the notice of this Court that as per the Socio Economic Survey (SES) most of the petitioners were found to be eligible and steps are being taken to verify their claims and allot houses in Nandanavanam project at Karmanghat. Insofar as the claims of 41 other persons are concerned, their claim is disputed.

Learned Counsel for the petitioners has produced before this Court a statement of 67 persons along with their identity. Based on the statement, he submits that though the writ petition is filed by 26 persons, the relief is claimed in respect of 67 persons and, therefore, they are also entitled to allotment of house sites/houses. In the alternative, the learned Counsel for the petitioners submits that 41 persons, who did not file writ petition separately, may be given an opportunity to prove their claim by appearing before the MRO. This is not objected to.

The writ petition is filed by only 26 persons and the other 41 persons, who are also allegedly in occupation of the Government land/ riverbed land under Shivaji Bridge, cannot be granted any relief in this writ petition on the simple principle of *jus tertii*. However, they cannot be any objection if those 41 persons or any other claimants have approached the MRO, Nampally with proper identity, their cases shall have to be considered on a different footing. Insofar as the petitioners are concerned, the submissions made by the learned Assistant Government Pleader for Municipal Administration is recorded and the respondents shall consider allotment of houses at Nandavanam project at Karmanghat in accordance with rules of allotment. The learned Assistant Government Pleader submits that it will take six months for completion of the houses under construction. After such construction, these orders shall be complied with.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

March 16, 2006

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